

The complaint

Miss M complains MBNA Limited (“MBNA”) refuses to refund her for transactions on her account she says she didn’t authorise.

What happened

Miss M says she wanted to make a payment with her credit card but when she tried to look for it, she couldn’t find it. She then discovered unauthorised transactions on her account for over £2000 and informed MBNA. She would like MBNA to refund her for the transactions in dispute.

MBNA says it thinks Miss M is responsible. It says the transactions in dispute were a mix of contactless payments and chip and PIN payments. So, this means the person who made them had to have had the physical card and the correct PIN. MBNA asked Miss M if she had shared her PIN or written it down anywhere and she said she hadn’t. So, MBNA decided Miss M must be responsible for these transactions.

Our investigator considered this complaint and decided not to uphold it. Miss M disagreed, so the complaint has been passed to me for a decision.

What I’ve decided – and why

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

Generally speaking, MBNA is required to refund any unauthorised payments made from Miss M’s account. Those rules are set out in the Payment Service Regulations 2017. Miss M has said she didn’t carry out the transactions in dispute. So I have to give my view on whether I think she did authorise the transactions or not.

Having considered the above and all the evidence, testimonies, and relevant legislation (The PSR’s) I am not upholding this complaint. I have been unable to identify a compromise of Miss M’s PIN and on balance, I think it is more likely than not that the disputed transactions were authorised.

Miss M says she is not responsible for the transactions which were made on her credit card on 23 and 24 January 2024. She says the last genuine transaction she made was on 21 January 2024 and sometime after this her card must have got lost. Miss M initially said she hadn’t written down her PIN or given it to anyone, but recently she told us she had it written in her phone. But Miss M says her phone has always been in her possession. The evidence supplied from MBNA of the transaction’s history show the disputed transactions were a mix of contactless and chip and PIN transactions. Miss M has told us that her card was missing but has not provided any evidence to suggest how her PIN could’ve been compromised. She said the PIN was written on her phone but that she has always had this in her possession. MBNA have confirmed that no PIN reminders or new PINs have been issued to Miss M prior to these transactions. It also said that Miss M had not used her PIN since June 2023 – so I have ruled out the likelihood that someone shoulder

surfing her and then stole her card. So, without another more persuasive explanation as to how someone else could've obtained her PIN, I think Miss M made these transactions herself or gave someone else her card and PIN to make them.

I've looked closely at the transaction history, and I don't think this is typical of fraud. I say this because there are many transactions of varying amounts of money to general clothing and cosmetic stores. Usually in cases of card theft we see evidence that the thief tries to spend as much money as possible on each transaction and for high-cost items which can easily be sold. I've also not seen any declined transactions or incorrect PIN attempts – which are also often seen in fraud cases. So, I am not persuaded that the transactions in dispute were carried out by someone else.

Overall, based on the evidence I've seen I think it's more likely than not that Miss M carried out the disputed transactions herself, or gave someone else her card and PIN to carry out these transactions. So, I am not upholding this complaint and I won't be asking MBNA to do anything further.

My final decision

I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 25 July 2024.

Sienna Mahboobani
Ombudsman